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09/667,390	09/20/2000	Kazuo Ogura	00673/LH	6058

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Frishauf Holtz Goodman Langer & Chick PC
767 Third Ave
New York, NY 10017-2023

EXAMINER

SELBY, GEVELL V

ART UNIT	PAPER NUMBER
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2615

DATE MAILED: 12/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

4

Office Action Summary

Application No.

09/667,390

Applicant(s)

OGURA, KAZUO

Examiner

Gevell Selby

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claim 6 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 1 already claims the limitations of the memory control means claimed in claim 6. It is implied in claim one that there is some predetermined condition on which the memory control means stores. In order to further limit the claim a specific condition must be claimed.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. **Claims 31 and 33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

Claims 31 and 33 require "positioning information acquisition method", but, since the claims do not clearly set forth any steps involved and merely recite means, it is unclear what method/process applicant is intending to encompass. Claims 31 and 33 are ambiguous, and improperly claim both statutory classes of an apparatus and a method. In *Ex Parte Lyell* 17 USPQ 2nd 1548 (Bd. PA&I 1990).

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. **Claims 1-4,6-15, and 17-33 are rejected under 35 U.S.C. 102(e) as being anticipated by Ohkado, US 6,351,613.**

In regard to claim 1, Ohkado, US 6,351,613, discloses a camera (see figure 1 and column 1, lines 66-67) comprising:

photographing means (see figure 1, element 16 and column 2, lines 50-52);

positioning means (see figure 1, element 15 and column 2, lines 47-49);

positioning timing control means for causing said positioning means to execute positioning at a predetermined timing to thereby obtain positional information (see figure 1, element 10 and column 2, lines 33-35 and column 3, lines 5-15);

memory means for storing a plurality of images photographed by said photographing means (see column 2, lines 40-44); and

memory control means (see figure 1, element 10) for storing said positional information obtained by said positioning timing control means in said memory means in

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association with said plurality of photographed images (see column 2, lines 33-35 and column 4, lines 41-46).

In regard to claim 2, Ohkado, US 6,351,613, discloses the camera according to claim 1, wherein said predetermined timing for obtaining said positional information is when said camera is powered on or powered off (see figure 2, element S112 and column 3, lines 60-61).

After camera is powered on, positional information is taken at a predetermined time.

In regard to claim 3, Ohkado, US 6,351,613, discloses the camera according to claim 1, wherein said predetermined timing for obtaining said positional information is when a photographing mode is set or is released (see figure 4, elements S209 and S213 and column 6, lines 51-59).

In regard to claim 4, Ohkado, US 6,351,613, discloses the camera according to claim 1, wherein said predetermined timing for obtaining said positional information is when a date or a date and time are changed (see figure 2, element S112 and column 3, lines 60-61).

Every time the positional information is taken again the date and time have changed.

In regard to claim 6, Ohkado, US 6,351,613, discloses the camera according to claim 1, wherein said memory control means (see figure 1, element 10) stores said positional information in said memory means in association with a plurality of images photographed by said photographing means under a predetermined condition (see column 2, lines 33-35 and column 4, lines 41-46).

In regard to claim 7, Ohkado, US 6,351,613, discloses the camera according to claim 1, wherein said positioning timing control means performs positioning again to acquire new positional information when a predetermined time elapses since said predetermined timing (see column 3, lines 56-65).

In regard to claim 8, Ohkado, US 6,351,613, discloses the camera according to claim 1, wherein said predetermined timing for obtaining said positional information is when an interval of photographing done by said photographing means exceeds a predetermined time (see column 3, lines 56-65).

In regard to claim 9, Ohkado, US 6,351,613, discloses the camera according to claim 1, further comprising:

photographing instruction means (see figure 1, element 32) for instructing photographing by said photographing means (see column 3, lines 38-40) and

photographing control means (see figure 1, element 10) for performing photographing using said photographing means to acquire a photographed image when photographing is instructed by said photographing instruction means (see column 3, line 66 to column 4, line 5); and

wherein said positioning timing control means (see figure 1, element 10) executes positioning by using said positioning means to hereby acquire positional information when photographing is instructed by said photographing instruction means (see column 3, lines 60-61); and said memory control means includes:

first memory control means (see figure 1, element 10) for storing said positional information acquired by said positioning timing control means in said

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memory means in association with a photographed image acquired by said photographing control means (see column 4, lines 41-46), and

second memory control means (see figure 1, element 10) for storing a photographed image whose photographing is instructed by said photographing instruction means during positioning by said positioning means and which is acquired by said photographing control means in said memory means in association with said positional information stored in said memory by said first memory control means (see column 4, lines 41-46 and figure 2 and 3, steps 107-119).

In regard to claim 10, Ohkado, US 6,351,613, discloses the camera according to claim 1, further comprising:

photographing instruction means (see figure 1, element 32) for instructing photographing by said photographing means (see column 3, lines 38-40), and

photographing control means (see figure 1, element 10) for performing photographing using said photographing means to acquire a photographed image when photographing is instructed by said photographing instruction means (see column 3, line 66 to column 4, line 5); and

wherein said positioning timing control means (see figure 1, element 10) executes positioning by using said positioning means to thereby acquire positional information when photographing is instructed by said photographing instruction means (see column 3, lines 60-61); and
said memory control means includes:

first memory control means (see figure 1, element 10) for storing said positional information acquired by said positioning timing control means in said memory means in association with a photographed image acquired by said photographing control means (see column 4, lines 41-46), and

second memory control means (see figure 1, element 10) for storing a photographed image whose photographing is instructed by said photographing instruction means before a predetermined time elapses from a predetermined timing after a photographing instruction given by said photographing instruction means and which is acquired by said photographing control means in said memory means in association with said positional information stored in said memory by said first memory control means (see column 4, lines 41-46 and figures 2 and 3, steps 107-119).

In regard to claim 11, Ohkado, US 6,351,613, discloses a photographing location memorizing method for a camera having photographing means and positioning means (see figure 2), comprising the steps of:

causing said positioning means to execute positioning at a predetermined timing to acquire positional information (see column 3, lines 57-65) and causing said photographing means to photograph an image (see column 3, line 65 to column 4 line 5); and

storing a plurality of images acquired by said photographing means and storing said positional information in association with said plurality of photographed images (see column 4 lines 40-46).

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In regard to claim 12, Ohkado, US 6,351,613, discloses a camera comprising:

photographing means having a series photographing capability, for acquiring image data of a subject (see column 6, lines 13-32);

positioning means (see figure 1, 15 and see column 2, lines 47-49);

timing control means (figure 1, element 10) for controlling a timing at which said positioning means executes positioning to obtain positional information (see column 3, lines 5-15);

series photographing instruction means (see figure 1, element 34) for giving a series photographing instruction to said photographing means to carry out series photographing (see column 6, lines 13-15);

series photographing control means (see figure 1, element 10) for performing such control as to cause said photographing means to execute series photographing to acquire a plurality of photographed images in response to said series photographing instruction given by said series photographing instruction means (see column 6, lines 20-32);

memory means for storing said plurality of photographed images acquired under control of said series photographing control means (see column 4, lines 40-46); and

memory control means (see figure 1, element 10) for storing said positional information obtained by said positioning means in said memory means in association with said plurality of photographed images acquired by said photographing means (see column 4, lines 40-46).

In regard to claim 13, Ohkado, US 6,351,613, discloses the camera according to claim 12, wherein said timing which is controlled by said timing control means is before or immediately after said series photographing instruction is given by said series photographing instruction means (see figure 4, elements S208 and column 6, lines 5-18).

In regard to claim 14, Ohkado, US 6,351,613, discloses the camera according to claim 12, wherein said timing which is controlled by said timing control means is immediately before or immediately after said series photographing is finished (see figure 4, element S208 and column 6, lines 50-59).

In regard to claim 15, Ohkado, US 6,351,613, discloses the camera according to claim 12, wherein said timing which is controlled by said timing control means is when said photographing means is doing series photographing (see figure 4, element S208 and column 6, lines 5-18).

In regard to claim 17, Ohkado, US 6,351,613, discloses a photographing location memorizing method for a camera having photographing means for acquiring image data of a subject, positioning means and a series photographing capability (see figure 4), comprising the steps of:

causing said positioning means to execute positioning at a predetermined timing to acquire positional information (see figure 4, element S208 and column 6, lines 5-18) and causing said photographing means to carry out series photographing in response to a series photographing instruction (see figure 4, element S209 and column 6, lines 13-15); and

storing a plurality of photographed images acquired by said series photographing and storing said positional information in association with said plurality of photographed images (see column 6, lines 20-32 and column 4, lines 28-33).

In regard to claim 18, Ohkado, US 6,351,613, discloses a camera (see figure 1) comprising:

photographing means for acquiring image data of a subject (see figure 1, element 16 and column 4, lines 1-5) and ;

positioning means (see figure 1, element 15); and

positioning timing control means (see figure 1, element 10) for controlling said positioning means in such a way that positioning is carried out immediately before or immediately after photographing by said photographing means (see column 6, lines 55-59).

In regard to claim 19, Ohkado, US 6,351,613, discloses the camera according to claim 18, further comprising:

photographing instruction means (see figure 1, element 32) for giving a photographing instruction to said photographing means (see column 3, lines 38-40); and

wherein said positioning timing control means controls said positioning means in such a way that positioning is carried out immediately before or immediately after said photographing instruction is given by said photographing instruction means (see figure 4, element S208 and column 6, lines 50-59).

In regard to claim 20, Ohkado, US 6,351,613, discloses the camera according to claim 19, further comprising:

positioning instruction means (see figure 1, element 34) for giving a positioning instruction immediately before or immediately after said photographing instruction is given by said photographing instruction means, whereby said positioning timing control means controls a positioning timing of said positioning means in response to said positioning instruction from said positioning instruction means (see figure 4, element S209 and column 6, lines 13-30).

In regard to claim 21, Ohkado, US 6,351,613, discloses a camera comprising:

photographing means (see figure 1, element 16);

positioning means (see figure 1, element 15);

positioning timing control means (see figure 1, element 10) for controlling said positioning means in such a way that positioning is carried out at a predetermined time interval (see column 3, lines 60-61); and

positioning information acquisition means (see figure 1, element 10) for acquiring said positioning information provided by said positioning means immediately before or immediately after photographing by said photographing means (see column 3, lines, 60-67).

In regard to claim 22, Ohkado, US 6,351,613, discloses a camera comprising:

photographing means (see figure 1, element 16);

positioning means (see figure 1, element 15); and

control means (see figure 1, element 10) for controlling a positioning operation by said positioning means and a photographing operation by said photographing means in such a way that a positioning timing of said positioning means and a photographing timing of said photographing means do not overlap each other (see column 7, lines 59-65).

In regard to claim 23, Ohkado, US 6,351,613, discloses the camera according to claim 22, further comprising:

priority operation setting means for selectively setting a priority of one of said positioning operation by said positioning means and said photographing operation by said photographing means over the other when said positioning operation and said photographing operation overlap each other (see column 7, lines 59-65); and

wherein said control means performs control to inhibit said positioning operation or said photographing operation based on a result of setting by said priority operation setting means (see column 6, lines 13-15).

In regard to claim 24, Ohkado, US 6,351,613, discloses the camera according to claim 18, further comprising memory means for storing a photographed image acquired by said photographing means in association with said positioning information acquired by said positioning means (see column 4, lines 28-32).

In regard to claim 25, Ohkado, US 6,351,613, discloses the camera according to claim 18, further comprising means for inhibiting photographing by said photographing

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means while positioning is carried out by said positioning means (see column 3, line 60-67).

The photographing step S114 is not allowed to begin until the position information receiving step S110 is completed.

In regard to claim 26, Ohkado, US 6,351,613, discloses the camera according to claim 18, further comprising notification means for notifying positioning being in progress while positioning is carried out by said positioning means (see column 4, lines 26-28).

In regard to claim 27, Ohkado, US 6,351,613, discloses the camera according to claim 26, wherein said notification means includes a display lamp or a sound output unit (see column 4, lines 26-28).

In regard to claim 28, Ohkado, US 6,351,613, discloses the camera according to claim 21, further comprising means for inhibiting photographing by said photographing means while positioning is carried out by said positioning means (see column 3, line 60-67).

The photographing step S114 is not allowed to begin until the position information receiving step S110 is completed.

In regard to claim 29, Ohkado, US 6,351,613, discloses the camera according to claim 21, further comprising notification means for notifying positioning being in progress while positioning is carried out by said positioning means (see column 4, lines 26-28).

In regard to claim 30, Ohkado, US 6,351,613, discloses the camera according to claim 29, wherein said notification means includes a display lamp or a sound output unit (see column 4, lines 26-28).

In regard to claim 31, Ohkado, US 6,351,613, discloses a positioning information acquisition method (see figure 2) for a camera having photographing means and positioning means, wherein said positioning means is controlled in such a way as to execute positioning immediately before or immediately after photographing by said photographing means (see column 3, lines 60-67).

In regard to claim 32, Ohkado, US 6,351,613, discloses a positioning information acquisition method for a camera having photographing means and positioning means (see figure 2), comprising the steps of:

controlling said positioning means in such a way as to execute positioning at a predetermined time interval (see column 3, lines 60-67); and

acquiring positioning information provided by said positioning means immediately before or immediately after photographing by said photographing means (see column 3, lines 60-67).

In regard to claim 33, Ohkado, US 6,351,613, discloses a positioning information acquisition method (see figure 2) for a camera having photographing means and positioning means, wherein a positioning operation by said positioning means and a photographing operation by said photographing means are controlled in such a way that a positioning timing of said positioning means and a photographing timing of said photographing means do not overlap each other (see column 7, lines 59-65).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 5 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ohkado, US 6,351,613 in view of Takahashi et al., US 5,768,640.**

In regard to claim 5, Ohkado, US 6,351,613, discloses the camera according to claim 1, but lacks “wherein said predetermined timing for obtaining said positional information is when a folder provided in said memory means as a storage location for a photographed image is changed or a folder is newly provided.”

Takahashi et al., US 5,768,640, teaches that a memory buffer is needed to receive position information until all the data is completed (see figure 18, element 62 and column 20, lines 40-58). It is obvious that a memory buffer has folders or sections to data. It would have been obvious to a person skilled in the art, the time of invention to modify Ohkado, US 6,351,613, in view of Takahashi et al., US 5,768,640, to have a temporary buffer to store position data the camera receives until the transmission is complete. Ohkado, US 6,351,613, in view of Takahashi et al., US 5,768,640, would then have a predetermined timing for obtaining said positional information when a folder provided in said memory means as a storage location for a photographed image is changed or a folder is newly provided.

In regard to claim 16, Ohkado, US 6,351,613, discloses the camera according to claim 12, wherein said timing control means includes:

first positioning timing control means (see figure 1, element 10) for controlling said timing in such a way that said positioning means executes positioning to acquire first positional information before or immediately after said series photographing instruction is given by said series photographing instruction means, (see figure 4, element S208 and column 6, lines 5-18) and

second positioning timing control means (see figure 1, element 10) for controlling said timing in such a way that said positioning means executes positioning to acquire second positional information immediately before or immediately after series photographing by said series photographing control means is finished (see figure 4, element S208 and column 6, lines 55-59), and

said memory control means (see figure 1, element 10) stores said positional information computed by said positional information computing means (see figure 1, element 10) in said memory means (film) in association with said plurality of photographed images acquired by said series photographing control means (see column 4, lines 27-33).

Ohkado, US 6,351,613, lacks:

said camera further comprises positional information computing means for computing new positional information using said first and second positional information.

Takahashi et al., US 5,768,640, discloses a camera with an information computing means that compares the previous position data to the position data just received and makes the new position data from the more accurate of the two (see column 20 line 66 to column 21, line 7). It would have been obvious to a person skilled in the art, at the time of invention, to modify Ohkado, US 6,351,613, in view of Takahashi et al., US 5,768,640, to have the camera further comprise positional information computing means for computing new positional information using said first and second positional information in order to make the position data more accurate.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following art discloses cameras with position receiving means:

Tsuchiya et al., US 5,267,042,
Tanaka et al., US 5,335,072,
Matsumura et al., US 6,222,583,
Honda et al., US 6,304,729,
Ota, US 6,437,797,
Hashimoto et al., US 6,507,371.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gevell Selby whose telephone number is 703-305-8623. The examiner can normally be reached on 8:00 A.M. - 5:30 PM (every other Friday off).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vu Le can be reached on 703-308-6613. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.

gvs


VU LE
PRIMARY EXAMINER